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SUBJECT: NIGERIA WANTS TIME TO IMPLEMENT BAKASSI RULING

REFS: IIR 6 871 0599 02
- IIR 6 871 0004 03
- IIR 6 871 0617 02
- IIR 6 871 0005 03
- IIR 6 871 0008 03
- TD 314/42566-02
- TD 314/42626-02
- TD 314/41986-02
- Abuja 2800
- Abuja 2787
- Abuja 2813
- Abuja 2833
- Email Johnson/McKean 24 Oct 02
- FBIS Reston 240234Z OCT 02
- Yaounde 3537

Classified by multiple sources. Reasons: 1.5(a), (b) and (d).

¶11. (S) Summary: Nigeria's Cabinet states its objections to the ICJ ruling on Bakassi, suggests implementation will not begin soon, and calls for more bilateral talks. Meanwhile, the Armed Forces are simultaneously on high alert and a huge shopping spree. We view GON words and actions as efforts to force Cameroon to negotiate despite an international verdict largely in Yaounde's favor. Nigeria controls about 70% of Bakassi and will not withdraw now. GON hawks might like to take the rest, but military action does not seem imminent. However, the popular press is inciting the public against Cameroon, and popular fervor is mounting. A minor incident could spiral into a major confrontation. Engagement with the GON is required to minimize that risk; we offer some thoughts. End Summary.

Summary of Nigeria's Statement on Bakassi

¶12. (U) Nigeria's Federal Executive Council (Cabinet) October 23 adopted a statement charging the ICJ with having erred in its October 10 decision on the case concerning the "Land and Maritime Boundary between Cameroon and Nigeria." The six-page document asserted particularly that:
-- The UK never had sovereignty over Bakassi and therefore could not have ceded it to Germany in 1913;
-- The ICJ decision was "purely political;"
-- The French, German and English judges should have disqualified themselves because they "acted as judges in their own cause;"
-- Nigeria's constitution explicitly recognizes Bakassi as part of the Federation and, therefore, inalienable except by amendment of the constitution;
-- Nigeria was "unable to accept the reasoning of the Court" that the Maroua Declaration was binding, as Nigeria had never ratified it; and
-- The ICJ ruling did not affect the right of innocent passage (to Calabar) of Nigerian naval vessels.

¶13. (U) Notwithstanding headlines in most major news media that Nigeria had "rejected" the ICJ ruling, the statement carefully avoids blunt language. Rather, it argues that "a lot of fundamental facts were not taken into consideration" and "appeals to all [Nigerian] citizens at home and abroad to remain calm, positive and constructive until we can find a peaceful solution to the boundary issue between Nigeria and Cameroon." The statement expresses appreciation to UNSYG for offering his good offices to broker a meeting similar to the September 5 meeting in Paris "with a view to effecting reconciliation, normalization of relations and good neighborliness. The GON also "thanks all leaders of the international community who have expressed concern and reassures them that [Nigeria] will spare no efforts to maintain peace." However, the statement assures Nigerian citizens that their interests will be protected. "For Nigeria, ... it is a matter of the welfare and well-being of her people on their land."

What Does it Mean (and Not Mean)?

¶4. (U) In other words, Nigeria does not explicitly "reject" the ICJ decision, nor does it characterize the decision as a whole as "unacceptable." The statement's wording is quite careful to emphasize the interests of citizens rather than the interests of possession of territory that may yield valuable natural resources. Taken as a whole, however, the statement does constitute a refusal to accept the ICJ's reasoning and strongly implies a refusal to implement the judgment itself.

¶5. (C) In a meeting with key Chiefs of Mission October 24, Foreign Minister Sule Lamido contended that the statement attributed to UNSYG's spokesman following the September 5 meeting held an important error: President Obasanjo had never committed to implement the ICJ judgment; President Biya had done so, and UNSYG's statement had then imputed that commitment to Obasanjo as well. While this claim comes a bit late in the sequence of events, it is interesting that the GOC's brief statement of October 24 (Ref M) states that President Biya agreed to conform to the decision "as the United Nations Charter requires" and that Cameroon "remains disposed to put in place the confidence-building measures agreed at Paris between Presidents Obasanjo and Paul Biya." The GOC goes on to "energetically hope that the Nigerian Government will remain faithful to the undertakings freely accepted on September 5." What Yaounde's statement does not claim is that Obasanjo specifically agreed to implement the ICJ's ruling. MFA Permanent Secretary Hart told the Ambassador October 24 that Obasanjo had chosen not to correct UNSYG's error because the GON did not want to undermine Annan and was hoping to continue to draw on his good offices to reach a mutually satisfactory resolution of outstanding issues with Cameroon (See also para 11). Hart went on to say that he did not agree with the issuance of the October 24 statement. Rather, he believed the GON should have continued to study the judgment...ad infinitum.

¶6. (C) Moreover, Hart had told the Ambassador October 7 (Ref K) that Abuja sought a "joint implementation committee" to manage the post-decision process -- only to call back October 10 (before the judgment was read) to clarify the GON position (Ref L). Hart explained that Abuja preferred to create a "Reconciliation and Good Neighborliness Committee." We believed then, and still believe now, that the GON wants to focus GOC attention on the potential benefits of vastly improved overall bilateral relations in order to obtain Yaounde's acquiescence in a gradual and very deliberate implementation (or perhaps no implementation) of the aspects of the ICJ judgment that trouble Abuja most.

Public Pressures Very Real

¶7. (U) Opinion runs against the ICJ decision by a ratio of about 25:1, as measured by media reaction. Even those who favor implementation (mostly lawyers) argue not from the heart but from the precepts of international law and the GON's decision not to dispute ICJ jurisdiction after the GOC filed its suit. The lawyers are themselves a divided lot, with well over half backing the GON. Some of the journalism has become downright yellow, with recurring themes of "brutal Cameroonian gendarmes" harassing and murdering "innocent Nigerian fisherman" and robbing and raping their wives and daughters. Popular nationalism is growing; pressure on the GON to "do something" is real and rising.

Is the GON Leading or Following?

¶8. (C) A fundamental problem for the GON is that it never prepared the Nigerian public for the eventuality of losing the ICJ case -- even as the probability became clearer in recent months. Former Foreign Minister Baba Gana Kingibe told us just after the decision was announced that he had argued against accepting ICJ jurisdiction when he was Nigeria's top diplomat but that others, notably lawyer Richard Akinjide (now one of the loudest advocates of Nigeria refusing to implement the decision), had convinced then Head of State Sani Abacha that Nigeria would win. (COMMENT: We understand that Nigeria accepted compulsory ICJ jurisdiction in 1965, so it would have had to withdraw from the Court to prevent Cameroon's complaint from being heard. END COMMENT.).

¶9. (S) Obasanjo and the GON do not want to wage war, but

neither can they "surrender" Bakassi to Cameroon. They must negotiate a careful course between a bewildered and angry public and a watchful, wary court of world opinion. The GON has voiced to the GOF its position that any significant French support for Cameroon would be viewed as an unfriendly act. With far more business at stake in Nigeria than in Cameroon but its credibility with francophone States also on the line, Paris, too, must tread warily. Over the years, London has tried repeatedly to lower Nigerian expectations of a major legal victory. Nigerian officials have privately expressed deep chagrin over what they perceive as a lack of support from their former colonial ruler and have contrasted this stance with their perception that Paris is solidly behind Cameroon. Some have also criticized the U.S. It is far from clear that GON officials understand Cameroon's case is and always was much stronger. Indeed, Kingibe's account of his fruitless effort to convince Abacha to object to ICJ jurisdiction suggests that senior Nigerians' conviction that Bakassi was "rightfully" Nigerian might have blinded them to the principles of law that led the ICJ to conclude otherwise (with just two judges dissenting, one Nigerian and one from Sierra Leone). For now, the Nigerian public stands behind its President in seeing the ICJ decision as a manifestation of European neo-colonial intentions. The fact that the ICJ's presiding judge is a French national is viewed as "proof" of this alleged plot. British High Commissioner Philip Thomas's public call for Nigeria to respect the ICJ's ruling following a meeting with Lamido (Para 5) left many Nigerians nonplussed. Meanwhile, the FCO was calling in Nigeria's High Commissioner to press home London's view that Obasanjo had undertaken at Paris to implement the ICJ ruling and that the GON needed to do just that.

Getting the GON to Lead Constructively

¶10. (C) What the GON needs quickly in order to keep public anger from exploding into more calls for military action -- some commentators are already beating the drums of war, but they are, for now, in the minority -- is a sign from Yaounde that it is willing to negotiate. The GOC may believe that the ICJ victory gives it unassailably high moral ground, but the GON sees the ICJ decision as advisory and non-binding.

¶11. (C) MFA Permanent Secretary Hart told the Ambassador that the GON anticipated there would be another meeting in Paris facilitated by UNSYG, probably in mid-November. If this meeting takes place but the GON returns with little in hand, pressure for unilateral action is likely to increase. Nigerian jingoism could take over.

¶12. (C) An editorial in the Yaounde "Herald" (Ref N) called for Cameroonian magnanimity in victory and urged Biya to pay a "charm visit" to Abuja in short order. We believe the "Herald" has the right concept and that an enduring peace will require Yaounde to:

- Agree to some form of joint administration that will protect the interests of Bakassi's overwhelmingly Nigerian inhabitants, to include access to fisheries;
- Not attempt to prevent Nigeria from holding elections in Bakassi early next year, better still facilitate them; and
- Agree in principle to unrestricted Nigerian access to the Cross River Channel and work toward a formal agreement in that regard, perhaps with international guarantors.

¶13. (C) For its part, Nigeria could offer to exploit onshore and offshore hydrocarbon deposits jointly at a ratio heavily favorable to Cameroon; the oil and gas matter far more to Cameroon, whose resources are limited, than to Nigeria, whose huge gas reserves are largely untapped and whose oil-production capacity in excess of probable OPEC quotas is projected to grow steadily over the next decade.

Military Preparations

¶14. (S/NF) Senior Nigerians, including the Minister of Defense (septel), have made it clear GON forces will not budge from the portions of Bakassi they now control but that they will fight back if Cameroon attacks. While Cameroon may have no such intention, reporting from several sources (Refs E and G give examples) indicates that Nigerian intelligence services are warning policy-makers that Yaounde is preparing to strike. Despite his claims in a letter to President Bush, Obasanjo is reported in Ref H to have said that Nigerian hesitation in reclaiming Bakassi would prove "fatal" because Cameroon planned to "strike."

¶15. (S/NF) Nigeria's Constitution requires the President to obtain the National Assembly's permission before engaging Nigerian forces beyond its borders. In Ref H, a Senator is reported to believe that the Senate would accede to such a request. A Senator who was present at the October 11 Federal Security Council meeting where Bakassi was discussed told us that he had told Obasanjo, both during the meeting and privately, that the National Assembly would not support a declaration of war. The Senator commented to us that the legislators suspected that the talk of war was intended primarily to rationalize the purchase of weapons systems the Armed Forces did not really need. The only solution to its conflict with Cameroon was for Nigeria to negotiate, the Senator concluded.

¶16. (S/NF) The GON is moving to acquire weaponry that would prove useful in an eventual Bakassi conflict, including 12 SU-27 ground-attack aircraft and 70-plus 35-foot shallow-draft patrol boats (essentially large Zodiacs). This number of boats would be sufficient to move simultaneously most of the combat elements of all four battalions currently deployed in Bakassi and its immediate vicinity and to provide reinforcements and resupply. Also, the Nigerian port of Calabar is closer to Bakassi through less dangerous waters than is either Douala or Limbe. Any Cameroonians attempting to resupply Bakassi would be vulnerable to attack by Nigerian Alpha Jets, six of which are now operational, with four more expected to return to service soon. Also, Nigeria has procured additional Mi-35 attack helicopters, including a one-year maintenance contract, from Russia. (Refs A-E offer detail on the foregoing).

¶17. (S/NF) We have heard that the 20 battalion in Serti (near the Cameroonian border but about 500 km from Bakassi), which was scheduled to rotate to Sierra Leone, will stay in its garrison, with the Katsina-based 35 battalion rotating instead. However, Minister of Defense Danjuma October 25 again confirmed to the Ambassador his instructions to the Chief of Army Staff to move the Serti battalion to Sierra Leone (septel). We know that Nigerian forces across the country have been at a state of heightened alert since early October, and that those deployed to Bakassi are at their highest state of peacetime alert.

Comment:

¶18. (S) As Obasanjo put it in his October 14 letter to President Bush, "The situation is precarious politically. We would need the assistance of all parties to ensure that any form of confrontation or victor/vanquished posturing is discouraged. ...I welcome...your good offices in establishing further progress in the solution of the problem." As long as Cameroon does nothing that impacts negatively the rights and lives of Bakassi's inhabitants and as long as there is at least an appearance of progress toward a political solution that will restore the status quo before the decision, the GON should be able to resist pressure to act unilaterally. In their October 24 meeting, MFA Permanent Secretary Hart confessed to the Ambassador that the GON was indeed hoping for a restoration of the status quo ante and the re-establishment of the 1993 border demarcation committee.

¶19. (S) We believe that the GON is speaking in largely conciliatory terms with the international community while engaging in a major off-budget military build-up in order to build and sustain direct and indirect pressure on Cameroon to negotiate. Yaounde would be wise to do so. As we have noted earlier in this message, the balance of forces in and around Bakassi favors Abuja, and the Nigeria's relative advantage is likely to grow.

¶20. (S) The GON does not want to face the international condemnation (and possible French intervention) that would result from it striking against Cameroon. Obasanjo also has little to gain and much to lose under current circumstances; already some of our contacts are suggesting in private that he might want a war with Cameroon in order to be able to invoke the constitutional provision that allows elections to be deferred in time of war. We find this far-fetched, but Obasanjo would have to deal with public allegations along these lines should fighting break out.

¶21. (S) However, "the situation is precarious politically." There is a long history of violent incidents between local inhabitants (mostly Nigerians) and Cameroonian gendarmes. Nigeria's popular press is fanning the embers of resentment. Another incident would worsen the climate for dialogue, and

it could happen at any time.

What Should the USG Do?

122. (C) It would be useful for the USG to urge both parties to this ongoing dispute -- the ICJ ruling has not effected a political settlement both parties will accept -- to renew their dialogue, both under the good offices of UNSYG and directly. Senior Nigerians understand that full restoration of the status quo ante will be difficult, if not impossible, in the wake of the ICJ ruling. But neither they nor the people of Nigeria will agree to (and implement) the major changes the ICJ's ruling implies. Creative thinking and effective confidence-building measures, along with patience on both sides, are key requirements for the serious and sustained bilateral engagement that is the only hope of true resolution.

JETER